S.B. Criminal Misc. Bail Application No.2879/2006

Date : 14.07.2006.

HON'BLE MR. SATYA PRAKASH PATHAK, J.

Mr. J.S. Choudhary for the applicants.
Mr. V.R. Mehta, Public Prosecutor.

I have heard learned counsel for the applicants as well as the learned Public Prosecutor for the State and carefully gone through the impugned order.

The contention of learned counsel for the applicants is that in the instant case fatal blow caused to deceased Raja Ram has been assigned to Devilal. He submits that so far as the accused applicants are concerned, no injury has been inflicted on the person of the deceased by them. He further submits that postmortem report would go to show that there is only one injury on the head of the deceased, therefore, it would appear that prosecution version to involve the applicant in this case in relation to the injury sustained by the deceased cannot be accepted. He also submits that only one witness has

stated that Rakesh has inflicted injury on Indrasen and in this connection he invited my attention towards statements of Subhash, Krishanlal, Idan, Polaram, Sadhuram and Prempal. According to learned counsel, all the above statements would go to show that injury caused to Indersen either was caused by Rakesh or the injury was simple in nature and was on the leg.

On the other hand, learned Public Prosecutor has opposed the bail application.

I have considered the submissions made before me and carefully perused the material available on record. Prima facie, it appears that the fatal blow was not inflicted by the present accused applicants. From the statements of other witnesses recorded, role played by Rakesh Kumar in relation to the injury sustained by Inder Sen is also doubtful and the injury is simple in nature and also not on the vital part of the body.

Without expressing any opinion on the merit of the case, however, taking into consideration the overall facts and circumstances of the present case, I think it just and proper to enlarge the accused applicants on bail.

Accordingly, the bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that the applicants(1) Rakesh Kumar son of Lal Chand and (2) Sushil Kumar alias Sunil son of Devi Lal alias Bhadar Ram shall be released on bail in CR No.07/2006 P.S. Hindumal Kot, provided each of them executes a personal bond in the sum of Rs.30,000/- with two sound and solvent sureties in the sum of Rs.15,000/- each to the satisfaction of learned trial court for their appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(SATYA PRAKASH PATHAK), J.